

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
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A Bill

SENATE BILL 481

By: Senators Gilmore, J. Boyd, J. Bryant, B. Davis, J. Dismang, Hester, Hill, Irvin, B. Johnson, J. Petty, Rice, Stone

By: Representatives Wardlaw, Evans, M. Shepherd, Achor, F. Allen, Beaty Jr., Bentley, M. Brown, Joey Carr, Cavanaugh, Cozart, Crawford, Dalby, Eaves, Eubanks, Gramlich, Hawk, Holcomb, Jean, Maddox, McNair, Milligan, J. Moore, Painter, Pearce, Puryear, J. Richardson, Richmond, Steimel, Vaught, Walker, Warren, D. Whitaker, Wing, Wooldridge, Wooten

For An Act To Be Entitled

AN ACT TO CREATE A MORE SUSTAINABLE SYSTEM OF PROPERTY INSURANCE FOR PUBLIC SCHOOLS, STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, AND STATE-OWNED PROPERTY; TO CREATE THE OFFICE OF PROPERTY RISK WITHIN THE DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES; TO AMEND THE PUBLIC ELEMENTARY AND SECONDARY SCHOOL INSURANCE ACT; TO REVISE THE EMPLOYEE BENEFITS DIVISION OVERSIGHT SUBCOMMITTEE; TO AMEND THE ARKANSAS MULTI-AGENCY INSURANCE TRUST FUND ACT; TO COMBINE PUBLIC ELEMENTARY AND SECONDARY SCHOOLS WITH STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION AND STATE-OWNED PROPERTY UNDER A SINGLE PROGRAM TO ENSURE PROPER VALUATION FOR PROPERTY INSURANCE PURPOSES; TO CREATE THE STATE CAPTIVE INSURANCE PROGRAM ACT; TO PROHIBIT THE USE OF PUBLIC ADJUSTING IN PROPERTY INSURANCE CLAIMS; TO ALLOW FOR THE CREATION OF A CAPTIVE INSURANCE COMPANY BY THE STATE OF ARKANSAS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE A MORE SUSTAINABLE SYSTEM OF PROPERTY INSURANCE FOR PUBLIC SCHOOLS,



STATE-SUPPORTED INSTITUTIONS OF HIGHER
EDUCATION, AND STATE-OWNED PROPERTY; AND
TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Cooperation by state entities with State Captive Insurance Program.

The Insurance Commissioner, the State Insurance Department, the Director of the Risk Management Division, the Secretary of the Department of Transformation and Shared Services, the Division of Higher Education, the Commission for Arkansas Public School Academic Facilities and Transportation, the Department of Education, and the State Board of Finance shall cooperate with the State Captive Insurance Program and coordinate to ensure proper and effective coverage requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a public school, a state-supported institution of higher education, or the state for the benefit of the State Captive Insurance Program.

SECTION 2. DO NOT CODIFY. Transitional provisions for property insurance programs transferring to State Captive Insurance Program – Transfer of property insurance programs administered by Director of Risk Management Division.

(a) The property insurance programs administered by the Director of the Risk Management Division are transferred to the Department of Transformation and Shared Services, and the programs' authority, duties, functions, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including without limitation the functions of budgeting or purchasing, are transferred to the State Captive Insurance Program as it relates to the property insurance programs only.

(b)(1) The Director of the Risk Management Division and the State Insurance Department may continue to carry out the functions of the property insurance programs until such time that the transfer of the property insurance programs of the Department of Commerce - Division of Insurance - Arkansas Multi-Agency Insurance Trust established under the Arkansas Multi-

Agency Insurance Trust Fund Act, § 25-35-101 et seq. and the Public School Insurance Trust Fund established under the Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq., from the State Insurance Department to the Department of Transformation and Shared Services is complete or November 30, 2025, whichever is earlier.

(2) The Secretary of the Department of Transformation and Shared Services may extend the date by rule only for purposes of adjustment and payment of claims, as set out in Section 26 of this act.

(c) The Insurance Commissioner and the Director of the Risk Management Division shall cooperate with the State Captive Insurance Program to ensure an efficient and timely transition of operations once the State Captive Insurance Program begins operations to provide coverage for all buildings, structures, facilities, and business personal property owned by a public school, a state-supported institution of higher education, or the state for the benefit of the State Captive Insurance Program.

SECTION 3. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The property insurance programs for public schools, state-supported institutions of higher education, and state-owned properties are in a state of crisis;

(2) In 2023, the General Assembly authorized supplemental funding to send to public schools for the purpose of offsetting premium increases for public schools without implementing long-term systemic and structural reforms;

(3) In addition to the need for short-term action by the General Assembly to avert the impending premium increases for public schools, the General Assembly must take an active role in crafting a long-term solution to ensure the stability of the property insurance programs for public schools, state-supported institutions of higher education, and state-owned properties;

(4) Significant market adjustments in response to natural disasters in this state and in this country have resulted in the need for the General Assembly to restructure and combine the property insurance programs for public schools, state-supported institutions of higher education, and state-owned properties under the State Captive Insurance Program created by this act and to inject additional money into the State Captive Insurance

Program to maintain the integrity of the State Captive Insurance Program by offsetting premium increases for public schools, state-supported institutions of higher education, and state-owned properties;

(5) The use of public adjusting by certain public schools has caused an increase in property insurance premiums and a lack of viable options on the insurance market for future years;

(6) Properties of state-supported institutions of higher education have historically been undervalued, and including state-supported institutions of higher education in the State Captive Insurance Program will provide more attractive options for the State Captive Insurance Program on the insurance market;

(7) Properties of state-supported institutions of higher education will need to be reappraised by independent adjusters under the State Captive Insurance Program to ensure proper valuation of properties;

(8) The continual evaluation of the State Captive Insurance Program by the General Assembly is critical for:

(A) Maximizing the benefits to public schools, state-supported institutions of higher education, and the state that are participants in the State Captive Insurance Program; and

(B) Maintaining the continued viability of the State Captive Insurance Program; and

(9) Accountability and transparency in the operation of the State Captive Insurance Program are vital to a proper evaluation of the State Captive Insurance Program.

(b) It is the intent of the General Assembly that:

(1) The property insurance programs for public schools, state-supported institutions of higher education, and state-owned property are restructured and combined for public schools, state-supported institutions of higher education, and state-owned property under the State Captive Insurance Program;

(2) Additional money shall be injected into the State Captive Insurance Program to maintain the integrity of the State Captive Insurance Program by managing risks for public schools, state-supported institutions of higher education, and the state;

(3) Any additional funding provided for public schools or state-supported institutions of higher education for purposes of property insurance

during the Regular Session of the 95th General Assembly be considered a one-time infusion of money, not a permanent funding source;

(4) Funding will be calculated under the State Captive Insurance Program with meaningful reforms that restore permanent stability and actuarial soundness;

(5) The use of public adjusting is prohibited by public schools and state-supported institutions of higher education under the State Captive Insurance Program; and

(6) The Insurance Commissioner, the State Insurance Department, the Director of the Risk Management Division, the Secretary of the Department of Transformation and Shared Services, the Division of Higher Education, the Commission for Arkansas Public School Academic Facilities and Transportation, the Department of Education, and the State Board of Finance shall coordinate to ensure proper and effective coverage requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a public school, state-supported institution of higher education, or the state for the benefit of the State Captive Insurance Program.

(c) The General Assembly intends this transfer to streamline the delivery of property insurance coverage for all state-owned buildings, public schools and state-supported institutions of higher education to promote stability and fiduciary soundness for all structures covered and potential claims.

(d)(1) The property insurance programs of the Department of Commerce - Division of Insurance - Arkansas Multi-Agency Insurance Trust established under the Arkansas Multi-Agency Insurance Trust Fund Act, § 25-35-101 et seq. and the Public School Insurance Trust Fund established under the Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq., shall be transferred by cabinet-level department transfer under § 25-43-101 et seq., from the Department of Commerce to the Department of Transformation and Shared Services no later than December 1, 2025, to provide for the operation of the State Captive Insurance Program.

(2) The Department of Commerce and the Department of Transformation and Shared Services shall coordinate the transfer to coincide with the start date of the State Captive Insurance Program established under § 25-44-103.

(e) The transfer of the statutory authority, powers, duties,

functions, records, personnel, property, contracts, and unexpended balances of appropriations, allocations, or other funds shall begin at the direction of the Chief Fiscal Officer of the State in cooperation with the Secretary of the Department of Commerce and the Secretary of the Department of Transformation and Shared Services on July 1, 2025, and shall be fully complete by December 1, 2026, for the establishment of the State Captive Insurance Program.

(f) The orders, rules, regulations, directives, or standards in this section shall continue with full force and effect until amended or repealed under authority given by law.

(g) The Department of Commerce shall grant access to and provide all information requested by the Department of Transformation and Shared Services to accomplish the transfer of the property insurance coverage from the Arkansas Multi-Agency Insurance Trust Fund and the Public School Insurance Trust Fund and the missions of these programs to the new State Captive Insurance Program.

SECTION 4. Arkansas Code § 6-20-1503 is amended to read as follows:

6-20-1503. State Insurance Department – Powers and duties regarding cybersecurity risks insurance for public elementary and secondary schools.

It shall be the power and duty of the State Insurance Department to:

(1) Adopt such rules as may be necessary to provide for the insuring of public elementary and secondary school, education service cooperative, and open-enrollment public charter school ~~property~~ cybersecurity risks insurance within the State of Arkansas;

(2) Administer the Public School Insurance Trust Fund;

(3) Delegate responsibilities in connection with the administration of this subchapter to the Director of the Risk Management Division and the staff of the department;

(4)(A) Establish and administer a program of insurance to cover ~~buildings and contents~~ cybersecurity risks insurance of public school districts, education service cooperatives, and open-enrollment public charter schools of this state that have elected to participate in a multischool insurance program.

(B) The ~~programs~~ program shall be in accordance with recognized and established insurance practices;

(5) Establish, and from time to time modify, the premium rates to be charged for the various risks;

(6) Specify the form for insurance policies and other forms required for the purposes of this subchapter;

(7)(A) Purchase insurance in compliance with all state purchasing laws from insurance companies authorized to do business in this state in keeping with recognized principles of good risk management.

(B) The director shall prescribe, from time to time, rules for placing and handling the insurance;

~~(8) Employ necessary adjusters, engineers, appraisers, and other personnel required in the administration of this subchapter;~~

~~(9)~~ Engage in a program of prevention loss control to assist the various public schools in improving and minimizing potential insurance losses;

~~(10)~~(9) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management;

~~(11)~~(10) Periodically review the status of the fund and the adequacy of insurance premium rates and compare these rates with rates for comparable risks for private insurance companies;

~~(12)~~(11) Confer with superintendents and boards of directors of school districts, the governing boards of education service cooperatives, and open-enrollment public charter schools concerning insurance practices of the various school districts, education service cooperatives, and open-enrollment public charter schools;

~~(13)~~(12) Promulgate rules for the administration of the ~~state public school~~ cybersecurity risks insurance program; and

~~(14)~~(13) Perform other duties that will expedite the operation of the Public Elementary and Secondary School Insurance Program.

SECTION 5. Arkansas Code § 6-20-1505 is amended to read as follows:
6-20-1505. Information to be furnished.

~~(a) The Director of the Risk Management Division of the State Insurance Department, with the approval of the Insurance Commissioner, shall require school district superintendents, county school supervisors, clerks, or governing boards of the education service cooperatives or open-enrollment~~

~~public charter schools to furnish the State Insurance Department a complete list showing the location of every school building sixty (60) days before entering the program and upon written request by the department.~~

(b) ~~The department~~ State Insurance Department shall have authority to require each school district, education service cooperative, or open-enrollment public charter school to furnish a complete report of its cybersecurity risks insurance program, including the expiration dates of its contracts, a history of losses, or any additional information required by the insurer.

SECTION 6. Arkansas Code § 6-20-1506 is amended to read as follows:

6-20-1506. Finding of uninsurability – Effect.

(a)(1) ~~The State Insurance Department is authorized to maintain an inspection and engineering service and a training program designed to reduce the hazards in public school buildings insured under this program.~~

(2) ~~The department shall have authority to cancel or not renew insurance on any school property if the property is deemed no longer insurable.~~

(3) ~~The department~~ may refuse to insure property insured for cybersecurity risks when it determines that the property does not meet program guidelines for cybersecurity risks insurance coverage.

(b) ~~In carrying out its duties pursuant to this section, the~~ The department may request and the affected school district shall provide any information requested for a determination concerning the reasons for ~~the~~ a denial, nonrenewal, or cancellation of cybersecurity risks insurance coverage.

SECTION 7. Arkansas Code § 6-20-1508 is amended to read as follows:

6-20-1508. ~~Appraisal and payment~~ Payment of losses.

(a) In the event of loss of a school district, education service cooperative, or open-enrollment public charter school property under the Public Elementary and Secondary School Insurance Program, the Public School Insurance Trust Fund shall pay the loss as specified in the contract.

(b) ~~When an agreement as to the extent of loss or damage cannot be reached between the State Insurance Department and officials having charge of the property, the amount of the loss or damage shall be determined by three~~

~~(3) appraisers, one (1) to be named by the department, one (1) by the school district, education service cooperative, or open enrollment public charter school governing board, and a third to be selected by the two (2) appointed appraisers, all of whom shall be disinterested persons and qualified from experience to appraise and value such property.~~

~~(c) If a third appraiser is not agreed upon within thirty (30) days, the Insurance Commissioner shall have authority to appoint a third appraiser.~~

~~(d) It shall be the duty of the department to coordinate, facilitate, and expedite details in connection with responsibilities outlined in this section.~~

~~(e) The department is granted authority to contract for services with licensed real estate brokers in order to expedite and facilitate the proper operation of the program.~~

SECTION 8. Arkansas Code § 6-20-1513 is repealed.

~~6-20-1513. Bond obligations.~~

~~(a) The State Insurance Department is authorized and directed to meet legal requirements with reference to coverage on buildings as a result of school district, education service cooperative, or open enrollment public charter school bond obligations.~~

~~(b) The specific intent of this section is to ensure that policies issued by the Public Elementary and Secondary School Insurance Program include provisions required by existing school district bond contracts.~~

SECTION 9. Arkansas Code § 6-21-114(d) and (e), concerning authorized and required actions of the Commission for Arkansas Public School Academic Facilities and Transportation, is amended to read as follows:

(d) The commission shall:

(1) Oversee the operations of the Division of Public School Academic Facilities and Transportation;

(2)(A) Promulgate rules in consultation with the ~~Insurance Commissioner~~ Department of Transformation and Shared Services to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under

subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

~~(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;~~

~~(iii)~~ Establish bidding requirements and procedures, if applicable to any insurance coverage; ~~and~~

~~(iv)(a)(iii)(a)~~ Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section; and

(iv) Require a public school district to be insured under the State Captive Insurance Program with respect to insurance coverage of the buildings, structures, facilities, and business personal property owned by the public school district in order to be eligible for the state's financial participation under the Academic Facilities Partnership Program under § 6-20-2507 and the Academic Facilities Catastrophic Program under § 6-20-2508; and

(3) Appoint all members of the Advisory Committee on Public School Academic Facilities.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Administrative Rules Subcommittee of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic

Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; ~~and~~

(4) Study and promulgate rules in consultation with the department concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to+

~~(i) Earth~~ earth movement; ~~or~~

~~(ii) The operation of a school district's motor vehicles and buses;~~ and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4); and

(5) Study and promulgate rules in consultation with the Insurance Commissioner concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to the operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(5).

SECTION 10. Arkansas Code § 6-21-806 is amended to read as follows:

6-21-806. Academic Facilities Master Plan Program – School districts.

(a) The Academic Facilities Master Plan Program shall require each school district to:

(1) Develop a six-year districtwide facilities master plan that shall be approved by the school district's board of directors for submission to and approval by the Division of Public School Academic Facilities and Transportation and the Department of Transformation and Shared Services;

(2) Base its facilities master plan on ~~the provisions;~~

(A) Provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Arkansas Public School

Academic Facilities and Transportation, ~~on priorities;~~

(B) Priorities indicated by statewide assessment, ~~on priorities;~~

(C) Priorities established by the division statewide facility needs priority list, ~~and on other;~~

(D) Rules promulgated by the department as they relate to requirements associated with public school district schedules for maintenance, repair, and renovation activities in public school academic and nonacademic facilities; and

(E) Other pertinent data specific to the needs of the school district with regard to academic facilities and equipment;

(3) Present a draft of the school district's facilities master plan in a public hearing in the same locality as the school district and take public comments;

(4) Submit evidence of the school district's insurance coverage to the division and the department, including coverage amounts, types of coverage, identification of buildings covered, policy renewal dates, and all riders;

(5) Submit the school district's facilities master plan with a summary of comments made at public hearing to the division and the department by February 1 of each even-numbered year;

(6) Submit a report to the division and the department by February 1 of each odd-numbered year that includes a description of all projects completed in the school district since the submission of the school district's most recent facilities master plan, the school district's current enrollment projections, new or continuing needs of the school district with regard to academic facilities and equipment, and an accounting of any changes in the school district's insurance coverage from the most recent submission; and

(7)(A) Submit a report to the division and the department by February 1 of each year that identifies:

(i) All unused or underutilized public school facilities in the school district; and

(ii) The unused or underutilized public school facilities, if any, that are designated in the district's facilities master plan to be reused, renovated, or demolished as part of a specific committed

project or planned new construction project.

(B)(i) The division shall identify a public school facility or other real property as an unused or underutilized public school facility if the school district fails to identify in the report the public school facility or other real property.

(ii) A school district may appeal an identification made by the division under subdivision (a)(7)(B)(i) of this section to the commission.

(b) A facilities master plan shall include, at a minimum, the following:

(1) A schedule of custodial activities for each public school facility used by a school district;

(2)(A) A schedule of maintenance, repair, and renovation activities for each public school facility used by a school district, that shall be based on the rules promulgated by the department.

(B) The schedule shall distinguish between work associated with academic facilities and work associated with nonacademic public school facilities;

(3)(A) Documentation that describes preventive maintenance work for each public school facility as required by rules promulgated by the department and identifies the completion date of the work.

(B) The documentation shall distinguish between preventive maintenance work associated with academic facilities and preventive maintenance work associated with nonacademic public school facilities;

(4)(A) Annual expenditures of the school district for all custodial, maintenance, repair, and renovation activities in the school district.

(B) The section of the facilities master plan pertaining to the annual expenditures under subdivision (b)(4)(A) of this section shall distinguish between expenditures associated with academic facilities and expenditures associated with nonacademic public school facilities;

(5) A projected replacement schedule for major building systems in each public school facility, that shall be based on the rules promulgated by the department;

(6) Identification of issues with regard to public school facility and program access to individuals with disabilities and, if

necessary, proposed methods for improving access;

(7)(A) Identification of committed projects within the school district that includes, as applicable, a breakdown of the portion of each project into maintenance, repair, and renovation activities and new construction activities, that shall be based on the rules promulgated by the department.

(B) The portion of a committed project pertaining to maintenance, repair, and renovation activities shall identify, as applicable, maintenance, repair, and renovation activities associated with academic facilities and maintenance, repair, and renovation activities associated with nonacademic public school facilities;

(8) Annual expenditures of the school district for capital outlay;

(9) A description of planned new construction projects with cost estimates for each public school facility within the school district and needs prioritized as follows:

(A) Immediate needs that the school district intends to address within three (3) years following the submission of the facilities master plan; and

(B) Long-term needs that the school district intends to address within the four (4) to six (6) years following the submission of the facilities master plan;

(10) Evidence of the school district's insurance coverage, including coverage amounts, types of coverage, identification of public school facilities covered, policy renewal dates, and all riders; and

(11) An update in a format prescribed by the division of any new public school facilities, as defined in § 6-21-803, constructed since the last master plan submission, including individual room types and sizes.

(c) A consultation meeting between representatives of the school district and members of the division and the department to discuss the development of the school district's facilities master plan shall be held upon request of the school district.

(d) The division and the department shall review and upon all ~~requirements'~~ requirements being met approve a school district's facilities master plan no later than September 1 of each even-numbered year and shall notify a school district no later than May 1 of each odd-numbered year

whether the school district's application for state financial participation during the upcoming biennium in an eligible new construction project has been approved.

(e)(1) A school district may amend its facilities master plans at any time during the six-year cycle specified in § 6-21-803.

(2) An amendment may be submitted to the division and the department out of the regular even-numbered year cycle if the school district:

(A) Has encountered:

- (i) A major enrollment change;
- (ii) A major curriculum change;
- (iii) A major disaster; or
- (iv) An unforeseen occurrence; or

(B)(i) Has begun or completed a self-funded construction project over which the division has only review authority.

(ii) An amendment submitted under subdivision (e)(2)(B)(i) of this section may be submitted in the form of an appendix to the existing school district facilities master plan.

(f) In addition to the rules promulgated by the commission as required by § 6-21-804, the department, in consultation with the division, shall promulgate rules regarding the following without limitation:

(1) The requirements associated with public school district schedules for maintenance, repair, and renovation activities in public school academic and nonacademic facilities, that shall be included in the Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual required by § 6-21-808;

(2) Insurance coverage requirements, including without limitation:

(A) Insurance coverage amounts; and

(B) Types of insurance coverage;

(3) Preventive maintenance work requirements for each public school academic and nonacademic facility;

(4) Projected replacement schedule requirements for major building systems in each public school academic and nonacademic facility; and

(5) A depreciation schedule for roofs and heating, ventilation, and air conditioning systems.

SECTION 11. Arkansas Code § 10-3-320 is amended to read as follows:

10-3-320. ~~Employee Benefits Division~~ State Insurance Programs
Oversight Subcommittee – Definition.

(a) The Legislative Council shall establish by rule the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee, which shall have oversight of all decisions of the State Board of Finance related to the State and Public School Life and Health Insurance Program and the State Captive Insurance Program.

(b) The following decisions of the board pertaining to the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program shall be referred to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee:

(1)(A) A new or significantly modified cost-containment measure.

(B) As used in this subdivision (b)(1), “cost-containment measure” means a process or practice of controlling and managing expenses of the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program by reducing or limiting the amount of spending required to administer the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program and remain within specific, preplanned budgetary constraints;

(2) Any change in plan options offered under the:

(A) ~~program~~ State and Public School Life and Health Insurance Program for state employees or public school employees; or

(B) State Captive Insurance Program for property owned by public schools, state-supported institutions of higher education, or the state;

(3) Potential funding changes to the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(4) Any premium increases or decreases over the previous plan year;

(5) Any concern involving the reserve balance for ~~state employees or public school employees~~ the State and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(6) Changes to the four-year projections for the ~~program~~ State

and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(7) Changes that would limit, eliminate, or increase benefits of plan options offered under the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program and the effect these changes would have on the fiscal viability of the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program, including the reserve balance for ~~state employees or public school employees~~ the State and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(8) Changes that would limit, eliminate, or increase eligibility requirements for the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program;

(9) Vendor issues or changes in vendors from the previous plan year;

(10) Proposed contracts or changes in contracts from the previous plan year;

(11) Any change in consultants from the previous plan year;

(12) Rules promulgated by the board, ~~or~~ by the Employee Benefits Division, or by the Secretary of the Department of Transformation and Shared Services regarding the implementation, administration, or enforcement of the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program; and

(13) Such other matters related to the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program as the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee considers necessary to perform its oversight of all matters related to the ~~program~~ State and Public School Life and Health Insurance Program or the State Captive Insurance Program.

(c)(1) Except as provided in subdivision (c)(2) of this section, if a matter referred to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee under subsection (b) of this section would otherwise require review or approval, or both, by a subcommittee of the Legislative Council, the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee shall serve as the subcommittee of the Legislative Council that performs the required review or approval, or both, of the matter.

(2) Proposed rules submitted to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee under this section are not subject to approval by the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee but are submitted for review purposes only.

(d)(1) During a regular, fiscal, or extraordinary session of the General Assembly, the Joint Budget Committee shall perform the functions assigned to the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee.

(2) The Joint Budget Committee may establish a subcommittee to perform the functions of the ~~Employee Benefits Division~~ State Insurance Programs Oversight Subcommittee that are assigned to the Joint Budget Committee under subdivision (d)(1) of this section.

SECTION 12. Arkansas Code Title 19, Chapter 3, Subchapter 7, is amended to add an additional section to read as follows:

19-3-706. Authority to establish and maintain captive insurance company.

(a) With the approval of the State Board of Finance under this section and notwithstanding § 23-63-1625, the Treasurer of State may establish, and the Secretary of the Department of Transformation and Shared Services shall maintain, a captive insurance company as defined in § 23-63-1601 to maintain the State Captive Insurance Program under the State Captive Insurance Program Act, § 25-44-101 et seq.

(b) The captive insurance company described under subsection (a) of this section is:

(1) Subject to § 23-63-1601 et seq. and other applicable laws and rules, whether or not adequate insurance markets are available to cover the risks, hazards, and liabilities described in this section;

(2) A separate legal entity, owned and controlled by the state, and shall insure only the losses, exposures, and risks of entities that are subject to insurance and self-insurance requirements under state law, including without limitation executive, legislative, and judicial branch state agencies, public schools, and state-supported institutions of higher education; and

(3) Administratively attached to the Department of Transformation and Shared Services for the purposes of administration and

personnel.

(c) Through the establishment of the captive insurance company described under subsection (a) of this section, the board shall:

(1) Annually review and approve the captive insurance company's actuarial plan;

(2) Periodically determine, reevaluate, and revise:

(A) The potential losses, exposures, and risks that will be insured through the captive insurance company;

(B) The nature and scope of insurance coverage or coverages to be provided through the captive insurance company;

(C) The method by which coverage or coverages are to be extended and contributions are to be paid and collected, including without limitation premiums and assessments;

(D) The amount of the exposure for each line of insurance coverage as well as the premium amounts for each entity, including without limitation public schools, state-supported institutions of higher education, and the state;

(E) A process through which premiums may be collected directly from each entity; and

(F)(i) The initial and continuing capital requirements to form and maintain the captive insurance company, including without limitation the amount and funding source for the initial and continuing capital.

(ii) Initial or continuing capital may be funded by general revenues from the State Captive Insurance Program Trust Fund or other sources allowable under applicable laws and rules;

(3)(A) Establish an investment policy for the investment and reinvestment of capital, premiums, and other funds and assets of the captive insurance company.

(B) The investment policy described under subdivision (c)(3)(A) of this section may authorize the funds and assets to be invested in a security, investment, or investment interest that is not otherwise prohibited by Arkansas Constitution, Article 12, § 5.

(C) Collateral that is required to secure an investment or investment interest authorized in the investment policy may be in the form of a security, investment, or investment interest in which the funds and assets of the captive insurance company may be directly invested, including cash;

(4) Approve regulatory filings to be made by the state on behalf of the captive insurance company in compliance with applicable laws and rules;

(5)(A) Delegate to the secretary the day-to-day operations and responsibilities of the captive insurance company and promulgation of rules to implement this section.

(B) The secretary shall implement the board directives and exercise the state's powers, duties, and responsibilities contained in this section to implement the captive insurance company.

(C) The secretary may assign duties and responsibilities to the secretary's staff or private vendors and contractors, as the secretary deems necessary and proper, and may consult with professionals as necessary about the administration of the captive insurance company.

(D) The secretary may also establish, implement, and adopt policies, guidelines, and operating procedures under this section and the board's delegation;

(6) Approve the dissolution of the captive insurance company with the prior approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee; and

(7) Perform other duties or actions necessary for the effective implementation, operation, and administration of the captive insurance company.

SECTION 13. Arkansas Code § 19-5-1134 is amended to read as follows:
19-5-1134. Public School Insurance Trust Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Public School Insurance Trust Fund".

(b) The Public School Insurance Trust Fund shall consist of:

(1) A Permanent Insurance Reserve Fund, insurance premiums, adjustments, earnings, interest income, and the like, as provided by the Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq., and the School Motor Vehicle Insurance Act, § 6-21-701 et seq.; and

~~(2) All funds transferred from the former Public Elementary and Secondary School Insurance Fund established under §§ 6-20-1510 [repealed] and 19-5-908 [repealed]; and~~

~~(3) All funds transferred from the former School Vehicle Insurance Reserve Trust Fund established under §§ 6-21-710 and 19-5-981 [repealed].~~

(c)(1) The Public School Insurance Trust Fund shall be used for the operation, maintenance, and execution of the Public Elementary and Secondary School Insurance Program under the Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq., and the Public School Motor Vehicle Insurance Program under the School Motor Vehicle Insurance Act, § 6-21-701 et seq.

(2) No money shall be appropriated from the Public School Insurance Trust Fund for any purpose except for the use and benefit of the Public Elementary and Secondary School Insurance Program and the Public School Motor Vehicle Insurance Program.

(3) All funds received by the State Insurance Department in the administration of the Public Elementary and Secondary School Insurance Program and the Public School Motor Vehicle Insurance Program as premiums, adjustments, earnings, and the like:

(A) Shall be used for the following purposes, listed in a descending order of priority:

(i) To defray administrative costs;

(ii) To pay claims; and

(iii) To maintain the Public School Insurance Trust Fund; and

(B) May be invested and reinvested as the Insurance Commissioner may determine.

(4) Moneys invested and interest earned thereon shall be administered as program funds.

(5) All moneys deposited into the Public School Insurance Trust Fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

~~(d) The initial loan from the former Public Elementary and Secondary School Insurance Fund as established by the Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq., of one million five hundred thousand dollars (\$1,500,000) to fund the former School Vehicle Insurance Reserve Trust Fund established under the School Motor Vehicle Insurance Act, § 6-21-701 et seq., is cancelled.~~

SECTION 14. Arkansas Code Title 19, Chapter 5, Subchapter 11, is amended to add an additional section to read as follows:

19-5-1161. State Captive Insurance Program Trust Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "State Captive Insurance Program Trust Fund".

(b) The State Captive Insurance Program Trust Fund shall consist of all funds transferred by the Department of Transformation and Shared Services from the captive insurance company established under § 19-3-706 and any other funds provided by law.

(c)(1) The State Captive Insurance Program Trust Fund shall be administered by and disbursed at the direction of the state.

(2) Moneys shall not be appropriated from the State Captive Insurance Program Trust Fund for any purpose except for:

(A) The use and benefit of the captive insurance company established under § 19-3-706 for claims;

(B) Expenses of the captive insurance company established under § 19-3-706, including without limitation actuarial fees, consultant expenses, operating expenses, and service contract fees; and

(C) The personnel costs for the Department of Transformation and Shared Services to support the captive insurance company established under § 19-3-706.

(3) All moneys deposited into the State Captive Insurance Program Trust Fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

(d)(1) There is created a reserve balance sub-fund in the State Captive Insurance Program Trust Fund as authorized under § 25-44-105 with all requirements as defined in that section.

(2) Funding allocated for operations and claims for the State Captive Insurance Program shall not be considered part of the net legal balance of the reserve balance sub-fund as described in § 25-44-105.

SECTION 15. Arkansas Code § 23-63-1614, concerning the premium tax levied on captive insurers, is amended to add an additional subsection to read as follows:

(k) This section does not apply to a captive insurance company established under § 19-3-706 to administer a public elementary and secondary school, state-supported institution of higher education, and state-owned property insurance program.

SECTION 16. Arkansas Code Title 23, Chapter 63, Subchapter 16, is amended to add an additional section to read as follows:

23-63-1625. Authority for expenditure of public funds.

The state or a political subdivision of the state may expend public funds for the purchase of capital stock in a captive insurance company established under § 19-3-706.

SECTION 17. Arkansas Code § 23-65-315 is amended to read as follows:

23-65-315. Tax on surplus lines brokers.

(a) ~~No~~ Except as otherwise provided in this section, no later than sixty (60) days following the end of the calendar quarter in which surplus lines insurance was procured, the surplus lines broker shall remit to the Treasurer of State through the Insurance Commissioner a tax of four percent (4%) on the direct premiums written, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus lines insurance subject to tax transacted by the surplus lines broker during the preceding calendar quarter for the privilege of transacting business as a surplus lines broker in this state.

(b) The commissioner may participate in a multistate agreement or enter into a compact for the purpose of reporting, collecting, and apportioning surplus lines insurance premium taxes.

(c) If a surplus lines insurance policy covers risks or exposures only partially in this state and the commissioner has entered into an agreement with other states for the apportionment of premium taxes for multistate risks, the tax payable by the surplus lines broker shall be computed and paid on the proportion of the premium that is properly allocable to the risks or exposures located in this state according to the terms of the agreement.

(d) This section does not apply to a captive insurance company established under § 19-3-706 to administer a public elementary and secondary school, state-supported institutions of higher education, and state-owned property insurance program.

SECTION 18. Arkansas Code § 25-35-102 is amended to read as follows:
25-35-102. Definitions.

For the purposes of this chapter:

- (1) "Annual aggregate deductible" means the maximum amount payable annually from the Arkansas Multi-Agency Insurance Trust Fund for covered losses;
- (2) ~~"Insurance Commissioner" means the Insurance Commissioner of the State Insurance Department or the commissioner's successor;~~
- ~~(3)~~ "Risk manager" means the Administrator of the Risk Management Division of the State Insurance Department;
- ~~(4)~~(3) "State agency" means any state agency, board, bureau, commission, council, department, institution, or other similar entity; and
- ~~(5)~~(4) "Trust fund" means the Arkansas Multi-Agency Insurance Trust Fund.

SECTION 19. Arkansas Code § 25-35-103(b), concerning the purposes of the Arkansas Multi-Agency Insurance Trust Fund, is amended to read as follows:

(b) No money shall be appropriated from the Arkansas Multi-Agency Insurance Trust Fund for any purpose except to pay:

- (1) Insurance and reinsurance premiums for a motor vehicle;
- (2) Loss adjustment expenses;
- (3) Related educational and training expenses;
- (4) Insured claims falling below the annual aggregate deductible level;
- (5) Expenses including actuarial, consultant, and service contract fees; and
- (6) Cybersecurity risk insurance premiums and expenses.

SECTION 20. Arkansas Code § 25-35-104(a), concerning the agencies that are allowed to participate in the Arkansas Multi-Agency Insurance Trust Fund, is amended to read as follows:

(a) The following agencies shall participate in the Arkansas Multi-Agency Insurance Trust Fund:

- (1) ~~State agencies participating in the State Master Property~~

~~Policy as of June 30, 2003;~~

~~(2) The Division of Correction;~~

~~(3)(2) The Division of Community Correction; and~~

~~(4)(3) State agencies participating in the Arkansas State Master Vehicle Policy as of June 30, 2003; and~~

(4) State agencies participating in the Arkansas Multi-Agency Insurance Trust Cyber Liability Insurance Program as of June 30, 2025.

SECTION 21. Arkansas Code § 25-35-105(b), concerning the duties of the risk manager of the State Insurance Department, is amended to read as follows:

(b) At the discretion of the commissioner, the risk manager may:

(1) Enter into contracts;

(2) Purchase insurance and reinsurance in accordance with the Arkansas Procurement Law, § 19-11-201 et seq.;

(3) Adjust, settle, and pay or deny claims with notice to a claimant;

(4) Pay expenses and costs;

(5) Study the risks of all participating state agencies and properties their the state agencies' motor vehicle or cybersecurity risk insurance coverages;

(6) Promulgate the form for insurance and reinsurance policies and other forms;

(7) Issue certificates of coverage to state agencies for any risks covered by the trust fund;

(8) Make recommendations about risk management and risk reduction strategies to participating state agencies;

~~(9) Review participating state agency building construction, major remodeling plans, program plans, and make recommendations to the participating state agency about needed changes to address risk considerations;~~

~~(10) Utilize underwriting discretion and authority to deny coverage of any risk deemed to adversely affect the financial stability of the trust fund;~~

~~(11) Establish values for participating state agency buildings and structures to be insured;~~

~~(12)~~(10) Attend state agency planning and management meetings;
~~(13)~~(11) Review any proposed legislation and communicate with members of the General Assembly and legislative committees about the liability or risk management issues connected with any legislation; and
~~(14)~~(12) Solicit any needed information about state agency plans, state agency programs, or state agency risks necessary to perform the responsibilities under this chapter.

SECTION 22. Arkansas Code § 25-35-107 is amended to read as follows:
 25-35-107. Payment of losses.

The risk manager shall establish:

- (1) Appropriate policies and procedures governing the payment of losses from the Arkansas Multi-Agency Insurance Trust Fund, including notice or proof of loss by any participating state agency; and
- (2) Policies and procedures governing disputes that may arise between the risk manager and any person having charge over the property motor vehicle or cybersecurity risk insurance in question concerning the extent of loss or damage.

SECTION 23. Arkansas Code § 25-35-108 is repealed.

~~25-35-108. Limits on use of risk management data as evidence.~~

~~Notwithstanding any other provision of law, any report, recommendation, survey, schedule, list, or data compiled, or action taken or not taken by or at the request of the risk manager to identify, evaluate, or plan the safety enhancement or risk reduction of any potential accident sites or other hazards related to any entity covered by the Arkansas Multi-Agency Insurance Trust Fund may not be admitted into evidence in any court or used for any other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in the reports, recommendation, survey, schedule, list, or data.~~

SECTION 24. Arkansas Code Title 25, is amended to add an additional chapter to read as follows:

CHAPTER 44
STATE CAPTIVE INSURANCE PROGRAM ACT

25-44-101. Title.

This chapter shall be known and may be cited as the "State Captive Insurance Program Act".

25-44-102. Definitions.As used in this chapter:

(1) "Cost-containment measure" means a process or practice of controlling and managing expenses of the State Captive Insurance Program established under § 19-5-706 by reducing or limiting the amount of spending required to administer the program and remain within specific and preplanned budgetary constraints;

(2) "Insured entity" means a public school or state agency insured under this chapter;

(3)(A) "Public insurance adjuster" means:

(i) An individual who, for direct, indirect, or any other compensation:

(a) Acts on behalf of an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under a policy of insurance coverage real or personal property; or

(b) On behalf of any other public insurance adjuster, investigates, settles, or adjusts, advises, or assists an insured with a claim or claims for loss or damage under any policy of insurance covering real or personal property; or

(ii) An individual who advertises, solicits business, or holds himself or herself out to the public as an adjuster of claims for loss or damage under any policy of insurance covering real or personal property.

(B) "Public insurance adjuster" does not mean an individual employed by the State Captive Insurance Program or employed for the benefit of the program;

(4) "Public school" means a public elementary school, a public secondary school, an education service cooperative, an open-enrollment public charter school, or a state-supported institution of higher education; and

(5) "State agency" means any state agency, board, bureau, commission, council, department, division, institution, or other similar

entity.

25-44-103. State Captive Insurance Program – Creation – Mandatory participation.

(a) There is established the State Captive Insurance Program.

(b) The program shall be a system of insurance provided by a captive insurance company established under § 19-3-706 for public schools and state-owned properties.

(c) If a public school or state agency with state-owned property accepts a state appropriation for a facility, then the public school or state agency with state-owned property shall participate in the program.

25-44-104. Department of Transformation and Shared Services – Powers and duties regarding insurance for insured entities.

(a) Upon the State Board of Finance’s approval of the formation of the captive insurance company described under § 19-3-706, the Secretary of the Department of Transformation and Shared Services shall:

(1) Provide administrative support and employ staff to implement, administer, and operate the captive insurance company;

(2) Facilitate the creation, implementation, or modification of the insurance policy issued by the captive insurance company;

(3) Facilitate agreements between the captive insurance company and other insurers and reinsurers;

(4)(A) Facilitate contracts, agreements, and procurements on behalf of the captive insurance company to effectuate this chapter, including without limitation contracting with financial consultants, investment consultants, actuaries, auditors, accountants, brokers, adjusters, attorneys, third-party administrators, and other contractors as necessary to carry out the duties and responsibilities of establishing, implementing, and administering the captive insurance company.

(B) Payment for expenses for these services may come from the State Captive Insurance Program Trust Fund under § 19-5-1161 or the assets of the captive insurance company;

(5) Prepare or assist in the preparation of financial statements and reports of financial condition;

(6) Maintain or assist in maintaining accounting for the captive

insurance company;

(7) Ensure the captive insurance company's compliance with applicable laws and rules;

(8) Perform other duties or actions necessary for the effective implementation, operation, and administration of the captive insurance company;

(9) Recommend a minimum reserve balance for the State Captive Insurance Program Trust Fund;

(10) Enforce the prohibition of the employment of a public adjuster by a public school that is utilizing the State Captive Insurance Program;

(11) Coordinate with the Commission for Arkansas Public School Academic Facilities and Transportation to ensure timely and proper inspections of public schools participating in the program;

(12) Require every public school or state agency with state-owned property to furnish to the secretary a complete list showing the location of every building located on a public school or state agency's real property; and

(13) Employ necessary adjusters, engineers, appraisers, and other personnel required in the administration of this subchapter.

(b) Funds received by the captive insurance company shall be:

(1) Used exclusively for the purposes and activities stated in this chapter; and

(2) Invested and reinvested in the name of the captive insurance company according to the business plan that is submitted by the captive insurance and approved by the State Insurance Department to ensure the investments provide the greatest benefit for the captive insurance company.

(c) Notwithstanding any law to the contrary:

(1) A reserve balance remaining unexpended at the end of a fiscal year in the captive insurance company's fund or account does not revert to the General Revenue Fund Account, but is carried forward into the subsequent fiscal year; and

(2) Interest accruing on investments and deposits of the captive insurance company shall:

(A) Be credited to the captive insurance company's fund or account;

(B) Not revert to the General Revenue Fund Account; and

(C) Be carried forward into the subsequent fiscal year.

(d)(1) The captive insurance company shall maintain a policy that is consistent with the state's claims administration process under the Arkansas Insurance Code and other applicable laws and rules related to the adjustment, adjudication, and settlement of claims filed against the state.

(2) The granting or denial of claims filed pursuant to the captive insurance company's policy shall be done according to the Arkansas Insurance Code and other applicable laws and rules.

(e) The captive insurance company established under § 19-3-706 is subject to:

(1) Applicable laws and rules that apply to captive insurers under § 23-63-1601 et seq. and the applicable laws and rules governing the captive insurance company's business structure unless specifically exempted; and

(2) An annual audit by Arkansas Legislative Audit.

(f) The captive insurance company shall file annually a copy of the examination performed by the State Insurance Department with the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(g) If the captive insurance company established under § 19-3-706 ceases to exist, then its assets remaining after its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the Restricted Reserve Fund under § 19-5-1263.

25-44-105. Creation – Office of Property Risk.

(a) There is created within the Department of Transformation and Shared Services the Office of Property Risk that shall administer the State Captive Insurance Program.

(b) The program shall be administered by the Secretary of the Department of Shared Services that shall employ a director and administrative staff in such numbers as are necessary to carry out this subchapter.

25-44-106. Reserve balance – Funding mechanism established to maintain reserve balance – Definition.

(a) As used in this section, "reserve balance" means the amount in a

fund that includes the existing balance, minus the claims that have been incurred but not reported, case reserves, and unearned premium reserves for each year for the State Captive Insurance Program.

(b)(1) Beginning on December 1, 2026, and annually thereafter, the Secretary of the Department of Transformation and Shared Services shall take any actions necessary to achieve and maintain an optimal reserve balance to ensure the solvency of the program as actuarially determined and commensurate with the insured exposure.

(2) As of December 1, 2025, an optimal reserve balance amount is no less than fifty million dollars (\$50,000,000) or no more than seventy-five million dollars (\$75,000,000).

(3) The secretary shall annually establish an optimal reserve balance to ensure solvency of the program as actuarially determined and commensurate with the insured exposure of the program with the approval of the State Board of Finance and the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(c) Annually by December 1, the secretary shall:

(1) Calculate the projected reserve balance for:

(A) The remaining calendar year; and

(B) The next three (3) calendar years;

(2) Determine whether the amount of revenue collected by the secretary is projected to satisfy the optimal reserve balance for the program established under subdivision (b)(1) of this section for the remaining calendar year;

(3) Notify the board and the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, of the projected reserve balance for the remaining calendar year as described in subdivision (c)(1)(A) of this section; and

(4) Submit for prior approval by the board and the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, his or her plan to achieve or maintain the optimal reserve balance.

(d) If the secretary's determination under subdivision (c)(2) of this section does not equal or exceed the acceptable reserve balance amount as described in subdivision (b)(3) of this section, the secretary shall notify the Legislative Council or, if the General Assembly is in session, the Joint

Budget Committee, of the need to convene to consider providing additional funding.

(e)(1) If during the Legislative Council's or, if the General Assembly is in session, the Joint Budget Committee's, review of the secretary's determination as required under subdivision (c)(4) of this section it is determined that additional funding is needed to maintain the acceptable reserve balance amount as described in subdivision (b)(3) of this section, the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, may:

(A) Recommend that the Governor call an extraordinary session of the General Assembly; or

(B) Take further action as may be appropriate.

(2) If the General Assembly fails to provide funding by March 1 following the Legislative Council's or, if the General Assembly is in session, the Joint Budget Committee's review, the secretary shall initiate a process to collect the required additional revenue from program participants through premium rate increases or reducing program benefits, or both, for the next plan year.

(f)(1) If the secretary determines that the reserve balance for the program will exceed seventy-five million dollars (\$75,000,000), the secretary may elect to use the excess reserve balance by lowering the premium rates for the next plan year with prior approval from the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(2) If the secretary does not elect to use the excess reserve balance in the manner prescribed under subdivision (f)(1) of this section, the secretary shall report to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, the reason for the secretary's decision not to use the excess reserve balance.

25-44-107. Accountability – Legislative oversight – Transparency – Annual reports – Definition.

(a) The Secretary of the Department of Transformation and Shared Services and the State Board of Finance shall report annually to the Legislative Council, or if the General Assembly is in session, the Joint Budget Committee, on the status of the State Captive Insurance Program.

(b) The annual report required under subsection (a) of this section

shall:

- (1) Be known as the "State Captive Insurance Program Annual Report";
- (2) Be submitted to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, no later than thirty (30) calendar days after the end of each plan year; and
- (3) Include without limitation the following information regarding the program:
 - (A) A detailed statement of investments and earnings;
 - (B) A new or significantly modified cost-containment measure;
 - (C) Any change in plan options offered under the program;
 - (D) Potential funding changes to the program;
 - (E) Any premium increases or decreases over the previous plan year;
 - (F) Any concern involving the reserve balance for the program;
 - (G) Changes to the current calendar year projections and the three-year projections for the program;
 - (H) Changes that would limit, eliminate, or increase benefits of plan options offered under the program and the impact these changes would have on the fiscal viability of the program, including the reserve balance for the program;
 - (I) Changes that would limit, eliminate, or increase eligibility requirements for the program;
 - (J) Vendor or broker issues or changes in vendors or brokers from the previous year;
 - (K) Proposed contracts or changes in contracts from the previous year;
 - (L) Any change in consultants from the previous year;
 - (M) Rules promulgated by the Department of Transformation and Shared Services or the secretary regarding the implementation, administration, or enforcement of the program; and
 - (N) Such other matters related to the program as the Legislative Council considers necessary to perform its oversight of all matters related to the program.

25-44-108. Finding of uninsurability – Effect.

(a)(1) The Secretary of the Department of Transformation and Shared Services may maintain an inspection and engineering service designed to reduce the hazards in buildings insured under the State Captive Insurance Program.

(2) Upon review of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, the secretary may:

(A) Cancel or choose to not renew insurance on any insured entity's property if the property is deemed no longer insurable; and

(B) Refuse to insure property when it determines that the property does not meet program guidelines.

(b) In carrying out his or her duties under this section, the secretary may request, and the insured entity shall provide, any information requested for a determination concerning the reasons for the denial, nonrenewal, or cancellation of insurance coverage.

25-44-109. Premium rate and payment.

(a) The premium rate established under this chapter shall be actuarially determined and commensurate with the insured exposure.

(b) An insured entity shall make payment of the insured entity's premium when demand is made as scheduled in the contract.

(c)(1) An insured entity that does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(2) If an insured entity does not pay the premium due within thirty (30) days, the insurance coverage may be canceled upon thirty (30) days' notice.

25-44-110. Public insurance adjuster – Prohibited.

The use of a public insurance adjuster or any type of public adjusting is prohibited by an insured entity under the State Captive Insurance Program.

25-44-111. Expeditious claims filing.

A claim made under the State Captive Insurance Program is required to be filed no later than one (1) year after the loss is incurred.

SECTION 25. DO NOT CODIFY. Severability.

The provisions of this act shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the act shall be enforceable.

SECTION 26. DO NOT CODIFY. Transitional provision for outstanding claims.

(a) The Secretary of the Department of Transformation and Shared Services shall promulgate rules to address the filing dates for a property claim that is incurred but not reported under the Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq. or the Arkansas Multi-Agency Insurance Trust Fund Act, § 25-35-101 et seq., once the State Captive Insurance Program is operational.

(b) At a date to be determined by the secretary by rule, a property claim shall be adjusted and paid, under the:

(1) Public Elementary and Secondary School Insurance Act, § 6-20-1501 et seq.; or

(2) Arkansas Multi-Agency Insurance Trust Fund Act, § 25-35-101 et seq.

(c)(1) The Arkansas School Boards Association shall be responsible for a property claim that is incurred before the State Captive Insurance Program is operational but has not been reported under the plan that is administered by the Arkansas School Boards Association and the property claim shall be adjusted and paid under the plan that is administered by the Arkansas School Boards Association.

(2) The State Captive Insurance Program is not responsible for a property claim that is incurred on the date determined by the secretary under subsection (b) of this section that has not been reported under the plan that is administered by the Arkansas School Boards Association.

(d) A property claim that is incurred on and after a date to be determined by the secretary by rule shall be filed with the State Captive Insurance Program.

SECTION 27. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that an instability in the property

insurance industry has led to increases in costs for public schools, state-supported institutions of higher education, and taxpayers for state-owned property; that these increases are not sustainable under the current system; that a new system for property insurance for public schools, state-supported institutions of higher education, and state-owned property is needed to alleviate the impact of high costs and provide a greater amount of certainty concerning costs; and that this act is immediately necessary because it establishes a new system for property insurance for public schools, state-supported institutions of higher education, and state-owned property to allow for better utilization of state resources and greater control to regulate costs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.